

FIFTEENTH DAY

(January 31, 1962)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President Pro Tempore.

The roll was called and the following Senators were present:

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Colson	Owen
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Hardeman	Rogers
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Spears
Krueger	Willis
Lane	

Absent—Excused

Roberts Weinert

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leaves of Absence

Senator Weinert was granted leave of absence for today on account of illness on motion of Senator Reagan.

Senator Roberts was granted leave of absence for today on account of important business on motion of Senator Owen.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
January 31, 1962.

Hon. Charles F. Herring, President Pro Tempore of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 100, Abolishing the board of county school trustees and the office of county superintendent in certain

counties in this state; providing that the present county superintendents of such counties shall serve out their terms to which elected or appointed; etc., and declaring an emergency.

(With amendment.)

H. B. No. 32, A bill to be entitled "An Act to provide that no person who has participated as a voter in a party primary for one political party may participate in a run-off primary for another political party, amending Art. 13.49 of the Election Code to this effect, and declaring an emergency."

H. B. No. 80, A bill to be entitled "An Act amending Section 24 of Article 79 of the Election Code of the State of Texas (Section 24 of Article 7.14, Vernon's Texas Election Code), relating to election officers in counties in which elections are conducted by the use of voting machines; changing the provisions relating to the method of appointment and rate of pay of the presiding officer and clerks for each election precinct, and the number of clerks which may be appointed; providing for severability; and declaring an emergency."

H. B. No. 95, A bill to be entitled "An Act relating to the creation of a State Disaster Council charged with the duty of carrying out the State's responsibility to its citizens in the event of a public calamity by making certain determinations and taking certain prescribed actions; and relating further to the powers and duties of and acts to be performed by the Governor in cases of public calamity; providing for the financing of actions taken to effectuate the purposes of the Act by the creation of a special fund and allocation of certain revenues thereto, by making certain appropriations and by authorizing investment of funds and reciprocal loan compacts with other states; providing a severability clause; and declaring an emergency."

H. B. No. 110, Providing that at the next General Election the electorate shall determine whether the office of the county superintendent shall be abolished in any county of this State having a population of not less than six hundred thousand (600,000) according to the last preceding Federal Census, and wherein there are four (4) or more common school districts;

providing that in the event the office is abolished certain duties shall be transferred to the county judge; providing for the compensation to be paid the county judge for performing such duties in an ex officio capacity; and declaring an emergency.

Respectfully submitted,

DOROTHY HALLMAN,

Chief Clerk, House of Representatives

Senate Resolution 69

Senator Dies offered the following resolution:

Whereas, On Tuesday, January 30, 1962, the people of the Fourth Congressional District of Texas selected the Honorable Ray Roberts of McKinney to succeed the late Speaker of the House, Congressman Sam Rayburn; and

Whereas, Ray Roberts has distinguished himself in war and peace—in war as a gallant and courageous naval officer—in peace as an able and responsible Member of the Texas Senate; and

Whereas, Senator Ray Roberts made an outstanding record as a Member of the Texas Senate, served as its President Pro Tempore and chairman of the Senate Finance Committee; and

Whereas, Ray Roberts was held in admiration and affection by his colleagues in the Texas Senate; now, therefore, be it

Resolved, That the Senate of Texas extend its warmest congratulations to Senator, now Congressman Ray Roberts and express our confidence that his service in the United States Congress will be marked by the same statesmanlike conduct which characterized his service in the Texas Senate.

DIES
HUDSON
OWEN
KRUEGER

Signed—Charles F. Herring, President Pro Tempore; Aikin, Baker, Calhoun, Colson, Creighton, Crump, Fuller, Hardeman, Hazlewood, Kazen, Lane, Martin, Moffett, Moore, Parkhouse, Patman, Ratliff, Reagan, Rogers, Schwartz, Secrest, Smith, Spears, Weinert, Willis.

The resolution was read.

On motion of Senator Ratliff and

by unanimous consent the names of the Senators were added to the resolution as signers thereof.

The resolution was then adopted.

Senate Resolution 73

Senator Hardeman offered the following resolution:

Whereas, A part of the region which Daniel Webster once described as "a barren waste of prairie dogs, cactus and shifting sands, incapable of producing anything and, therefore, not worth retaining," known as Arizona, "The Grand Canyon State," became the 48th State of the Union, on St. Valentine's Day, fifty years ago, thus adding lustre to the starry field of blue; and

Whereas, Her "barren waste" is now grassland, supporting thousands of cattle and sheep, and her "shifting sands" blossom as the rose as they are watered by great reservoirs behind some of the world's largest dams, while her mountains, where Coronado once searched in vain for gold, today yield mineral wealth beyond her wildest dreams; and

Whereas, With the opening of the first copper mine at Ajo, in 1854, by Charles D. Poston and the discovery of the rich placers of gold on the Gila River, in 1858, followed by the discovery of silver at Superior, in 1876, and by Ed Schieffelin in 1879 in the Tombstone area where he opened the Lucky Cuss, the Tough Nut and Contentment mines, to usher in an era of unparalleled development and excitement with its legends and tales of "The Town Too Tough to Die"; and

Whereas, The history of Arizona had its beginning with the arrival in Sonora in 1536 of Alvaro Nunez Cabeza de Vaca, who encouraged exploration of the land of which he had heard, whereupon Marcos de Niza, a Franciscan friar in 1539 became the first Spaniard to enter Arizona, to be followed by members of Coronado's Expedition who explored the Moqui country, and reached the Grand Canyon. Following successive expeditions over the intervening years a presidio was established in the memorable year of 1776 at Tucson; and

Whereas, Settlement was interrupted by the War Between the States, which caused the withdrawal of troops from the Territory and led to prolonged Indian wars which saw

Cochise, Victorio and Geronimo, with dauntless skill as guerilla fighters, lead their Apache braves on death-dealing and destructive raids on white settlements until a verbal treaty with Cochise was negotiated in 1872 and observed, to be followed by his death in 1874 at Cochise's stronghold, a few miles from Tombstone, the escape of Victorio to Mexico in 1878 and the capture of Geronimo at Skeleton Canyon by John P. Clum who was to achieve fame as the editor of "The Epitaph," established in 1880, and to preserve some of the richest history of the country to posterity; and

Whereas, Under the leadership of Charles D. Poston, "The Father of Arizona," the United States Congress established an independent territorial government, February 24, 1863, with its first capital at Prescott (later the home of Buckey O'Neill, colorful sheriff of Yavapai County and famous Rough Rider, with Colonel Theodore Roosevelt, in the Spanish-American War) and finally removed to Phoenix in 1889; and

Whereas, Agitation for statehood, begun in 1872, seemed on the verge of success, in 1891, when a constitution was drafted and ratified, but which was rejected by the United States Senate, as were subsequent proposals until 1910 when a constitution was adopted containing a provision for the recall of judges by popular vote and which was finally approved, subject to the removal of the recall provision, thus enabling President Taft to issue the proclamation of statehood on February 14, 1912, and Arizona, colorful, romantic and interesting became the 48th Star on the field of blue and immediately thereafter the people of the new state amended their Constitution by re-adopting and enlarging the original provision for the recall of judges to include every elected official, which provision prevails to this day; and

Whereas, Honorable George W. P. Hunt became the first Governor of the young State and served seven terms—not successive—as its Chief Executive with Honorable Henry Fountain Ashurst of Prescott, a former sheriff of Yavapai County, Territory of Arizona, who still survives at the age of 88 years, serving until his retirement in 1941, during which time his contributions to his State and country were manifold and his eloquence—delightful, refreshing, pass-

ing and unsurpassed—and Honorable Marcus Aurelius Smith of Tombstone, now deceased, became its first United States Senators, the latter being succeeded by Honorable Carl Hayden, now the able and respected "Dean" of the United States Congress, President Pro Tempore of the Senate of the United States and Chairman of the Senate Appropriations Committee, and only recently honored in his home state with an appreciation and testimonial dinner attended by the President and Vice President of the United States; and

Whereas, While the "olden and golden" territorial days are but a memory of the past, yet there rise up from their graves romantic and colorful characters of generations gone by—dauntless groups of men and women—including virtually every type—lawmen, outlaws, gunmen, pistoleers, cowmen, rustlers, miners, actors and actresses, ministers, gamblers, saloon-keepers, innkeepers, physicians, lawyers, merchants, editors, to mention some. Familiar names, recalled in song and story, whose owners' exploits have been embellished in the imagination of the raconteurs, include Ed Schieffelin, Wyatt Earp, with his four famous brothers, John H. "Doc" Holliday and his paramour, Big Nose Kate Fisher, the Clantons and the McLowrys, all of O. K. Corral fame, Johnny Ringo, Curly Bill Brocius, who perfected the "Curly Bill Spin," Sheriff Johnny Behan and his deputy, Billy Breakenridge, Sheriff John H. Slaughter, Bob Paul, Buckskin Frank Leslie, Frank Stilwell, Mayor Clum, George W. Parsons, Burt Alvord, Anton Chico, the homicidal Tewksbury—Graham Vendetta—the most sanguine range fued ever known by the Old West which swept the Tonto Basin in the late 1880's and which only subsided with the death of the last partisan—Nellie Cashman, "the miner's angel," Billy King, the Crystal Palace and Oriental Saloons, Eddie Foy, who appeared at the Bird Cage Theater, Jack Crabtree, brother of the famous actress, Lotta Crabtree, Dr. George Goodfellow, the coroner whose reports were cherished for their entertainment value, Dr. Endicott Peabody, renowned minister and educator, who established an Episcopal Church in Tombstone and later became headmaster of Groton school in Massachusetts, Captain Burton C. Mossman, organizer and first captain of the Ari-

zona Rangers, and formerly foreman and manager of the historic Hashknife Ranch, whose fearlessness in bringing law into the desert won the admiration and respect of all honest men and the fear of outlaws and familiarly known as "Cap Mossman, The Last Cowman"; and

Whereas, Following the colorful, Territorial days there emerged a period of cultural, educational and economic development unsurpassed by any State, with its vast mineral, archaeological, agricultural, scenic and climatic resources, from which has come the qualities of leadership which Arizona has attained in the commonwealth of states; and

Whereas, It is the desire of the Senate of Texas to officially recognize the exciting and romantic history, together with the modern achievements of a sister-state and congratulate her fine citizens upon the anniversary of fifty years of Statehood and bid her Godspeed in her future development; now, therefore, be it

Resolved by the Senate of Texas, That it does hereby express its congratulations to "The Grand Canyon State" and her people on their contributions to the well-being of mankind and to the great commonwealth of States comprising the United States of America; and be it further

Resolved, That copies of this resolution be forwarded by the Secretary of the Senate, under the official seal of the Senate, to Honorable Paul Fannin, Governor of Arizona; Honorable Carl Hayden and Honorable Barry Goldwater, United States Senators from Arizona; her Representatives in the United States Congress; to the President of the Senate; to the Speaker of the House of Representatives of the State of Arizona; to Honorable Henry F. Ashurst, former United States Senator; to Honorable Ernest W. McFarland, former Governor and former United States Senator; and to Honorable Stewart Udall, former Representative in Congress and presently Secretary of the Interior.

The resolution was read and was adopted.

Senate Resolution 74

Senator Krueger offered the following resolution for Senator Herring:

Whereas, We are honored today to have as a distinguished visitor in the

Senate of Texas a world famous horticulturist, Mr. David Burpee; and

Whereas, Mr. Burpee is President of the W. Atlee Burpee Company of Philadelphia, Pennsylvania; and

Whereas, This distinguished man has served as a renowned gardener for forty-seven years, he is a nationally recognized developer of hybrids, and his name is known by every garden enthusiast of the country; and

Whereas, Mr. Burpee has recently developed the "Mr. Sam" Marigold, named in honor of the late Speaker of the House of Representatives in Washington, the beloved Mr. Sam Rayburn; now, therefore, be it

Resolved, That Mr. David Burpee be officially welcomed as a visitor in the Senate today, that he be cordially invited to return to Texas' Capital City at all times as a welcome visitor, and that he be extended the privilege of the floor; and be it further

Resolved, That an enrolled copy of this resolution be presented to Mr. David Burpee with the congratulations of the Members of the Texas Senate.

HERRING
KRUEGER

The resolution was read and was adopted.

The President Pro Tempore appointed Senators Krueger, Rogers and Crump to escort the distinguished guest, accompanied by Mrs. Clare Ogden Davis of Austin, to the President's Rostrum.

The President Pro Tempore presented Mrs. Davis, a well-known writer of Austin, to the Members of the Senate.

Mrs. Davis presented Mr. Burpee and he addressed the Senate expressing appreciation for the happy and unexpected pleasure of being a guest of the Senate and paid tribute to Texas and the wonderful hospitality extended to him on his visit. He thanked the Senate for the honor paid him.

Senate Resolution 77

Senator Schwartz offered the following resolution:

Whereas, Each Session of the Legislature brings about numerous requests

for the establishment of water districts; and

Whereas, Requests to the Legislature always include the introduction of a bill prepared by attorneys unfamiliar with the legislative problems and acting under the direction of persons concerned with the sale of bonds rather than the protection of the rights of citizens within the District; and

Whereas, The Texas Legislative Council is the proper body to suggest the content and form of such legislation which will be in the best interests of the citizens concerned; now, therefore, be it

Resolved, That the Senate of the State of Texas request the Council to prepare a model Act for water districts, with explanations, pointing out changes from the general law to serve as a guide for the preparation and introduction of such bills by Members of the Legislature.

The resolution was read.

Senator Schwartz offered the following amendment to the resolution:

Amend S. R. 77 by substituting the words "Water Control and Improvement Districts" where the words "Water District" appear.

The amendment was adopted.

Senator Owen offered the following amendment to the resolution:

Amend S. R. No. 77 by deleting the third paragraph and substitute in lieu therefor the following:

Whereas, The Texas Legislative Council is the proper arm of the Legislature to formulate a suggested form; now, therefore,

The amendment was adopted.

The resolution as amended was then adopted.

Record of Votes

Senator Hardeman, Owen and Fuller asked to be recorded as voting "Nay" on the adoption of the above resolution.

Senate Concurrent Resolution 25

Senator Colson offered the following resolution:

S. C. R. No. 25, Suspending Joint

Rule 20 to consider S. B. No. 85 by the Senate at any time.

Be it resolved by the Senate, the House of Representatives concurring, that Joint Rule No. 20 be suspended in order that Senate Bill No. 85 may be considered at any time by the Senate.

The resolution was read.

Senator Colson asked unanimous consent to consider the resolution immediately.

There was objection.

Senator Colson then moved that S. C. R. No. 25 be considered immediately.

The motion prevailed by the following vote:

Yeas—25

Aikin	Moffett
Baker	Moore
Calhoun	Parkhouse
Colson	Patman
Creighton	Ratliff
Dies	Reagan
Fuller	Rogers
Hazlewood	Schwartz
Herring	Secrest
Kazen	Smith
Krueger	Spears
Lane	Willis
Martin	

Nays—3

Crump	Owen
Hardeman	

Absent

Hudson

Absent—Excused

Roberts	Weinert
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S. C. R. No. 25 was then adopted.

Record of Votes

Senator Hardeman, Owen and Crump asked to be recorded as voting "Nay" on the adoption of the above resolution.

Senate Resolution 80

Senator Martin offered the following resolution:

Whereas, The Honorable Burris C. Jackson of Hillsboro, Texas, has been elected to the presidency of the Na-

tional Cotton Council at the Council's 24th Annual Convention meeting in New Orleans, Louisiana; and

Whereas, It is the wish of the Senate to convey its congratulations to Mr. Jackson on this singular honor accorded him by his colleagues in the world's largest cotton industry organization, which honor acknowledges his thirty-six years of contributions to and leadership in activities to promote the cotton industry; now, therefore, be it

Resolved by the Senate of the State of Texas that we extend our congratulations and best wishes to Mr. Burris Jackson for continued success in his distinguished service to the industry, and that a copy of this Resolution be sent to him as a token of our esteem.

MARTIN
MOFFETT
OWEN

Signed—Charles F. Herring, President Pro Tempore; Aikin, Baker, Calhoun, Colson, Creighton, Crump, Dies, Fuller, Hardeman, Hazlewood, Hudson, Kazen, Krueger, Lane, Moore, Parkhouse, Patman, Ratliff, Reagan, Roberts, Rogers, Schwartz, Secrest, Smith, Spears, Weinert, Willis.

The resolution was read.

On motion of Senator Parkhouse and by unanimous consent the names of the Senators were added to the resolution as signers thereof.

The resolution was then adopted.

Senate Concurrent Resolution 26

Senator Baker offered the following resolution:

S. C. R. No. 26, Suspending Joint Rules to consider H. B. No. 111 at any time.

Be it resolved by the Senate that the Joint Rules be suspended, and they are hereby suspended for both houses in order either house may take up and consider at any time House Bill 111.

The resolution was read.

On motion of Senator Baker and by unanimous consent the resolution was considered immediately and was adopted.

Message from the Governor

The following message received from the Governor today was read and was referred to the Committee on Nominations:

Austin, Texas,
January 31, 1962.

To the Senate of the Fifty-seventh Legislature, Third Called Session:

I ask the advice, consent, and confirmation of the Senate with respect to the following appointments:

To be Judge of the District Court of the 89th Judicial District, to fill the unexpired term of Judge Graham B. Purcell, Jr., resigned: J. Walter Friberg of Wichita Falls, Wichita County.

To be a Branch Pilot for the Sabine Bar, Pass and Tributaries, for a two-year term to expire September 25, 1963: S. W. Levingston of Port Arthur, Jefferson County.

Respectfully submitted,

PRICE DANIEL,
Governor of Texas.

Notice of Executive Session

Senator Dies gave notice that he would on tomorrow after the Morning Call make a motion for an Executive Session.

House Bills on First Reading

The following bills received from the House, were read the first time and referred to the committees indicated:

H. B. No. 95, To the Committee on State Affairs.

H. B. No. 110, To the Committee on Counties, Cities and Towns.

H. B. No. 32, To the Committee on Privileges and Elections.

H. B. No. 80, To the Committee on Privileges and Elections.

Members of Senator Weinert's Family Granted Privileges of Floor

On motion of Senator Lane and by unanimous consent the members and guests of Senator Weinert's family were granted the privileges of the floor for tomorrow, February 1, 1962, for the ceremony honoring Senator Weinert.

**House Concurrent Resolution 28 on
Second Reading**

On motion of Senator Colson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading the following resolution:

H. C. R. No. 28, Granting permission to Mr. C. G. Way and Ruby May Watson, Bessie Hazel Brown, and Helen Kenty, as heirs of E. L. and Annie Brady, to sue the State of Texas.

The resolution was read.

Senator Calhoun offered the following amendment to the resolution:

Amend House Concurrent Resolution No. 28, Paragraph One (1) by deleting Paragraph One (1) and inserting in lieu thereof the following:

Paragraph One. "Whereas, C. G. Way; T. F. Castles and wife, Sallye M. Castles; Juliette Castles Barnes and husband, Bonner H. Barnes; Mary Helen Kenty and Husband, Fred C. Kenty; Ruby May Watson and husband, Howard Watson; Bessie Hazel Brown and husband, L. A. Brown; J. L. Patton; Gordon B. Broyles; E. E. Hoffpauir; J. W. McFarlane; and Waymon G. Peavy, are asserting title to the land and mineral interests in 320 acres, more or less, situated in Leon County, Texas; and"

The amendment was adopted.

The resolution as amended was then adopted.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
January 31, 1962.

Hon. Charles F. Herring, President
Pro Tempore of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 35, Granting permission to Pierce Brothers, Inc., to sue the State of Texas and the State Highway Commission.

H. C. R. No. 38, Congratulating Father Levada and his family.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

**Conference Committee Report on
Senate Bill 39**

Senator Rogers submitted the following Conference Committee Report on S. B. No. 39:

Austin, Texas,
January 30, 1962.

Hon. Charles F. Herring, President
Pro Tempore of the Senate.

Hon. James Turman, Speaker of the
House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill No. 39, have met and had same under consideration, and beg to report it back with the recommendation that it do pass in the form attached.

ROGERS
HAZLEWOOD
SPEARS
SMITH
MOFFETT

On the part of the Senate.

WELLS
QUILLIAM
McILHANEY
OSBORN

On the part of the House.

S. B. No. 39,

A BILL**To Be Entitled**

An Act amending Section 4 as added to Article 6050 of the Revised Civil Statutes of Texas, 1925, by Chapter 31, Acts of the 53rd Legislature, 1st Called Session, 1954, so as to provide that the sale, transportation, or delivery of natural gas for certain agricultural purposes or uses or for household use in farm houses shall not alone constitute a person, association, private corporation, trustee, receiver, or partnership a "gas utility," "private utility," or "utility" as defined by Article 6050 of the Revised Civil Statutes of Texas, 1925, and providing an exemption from rate regulation of such activity by the Railroad Commission, unless such a person, association, private corporation, trustee, receiver, or partnership sells, transports or delivers natural gas at retail to domestic consumers within the incorporated limits of any city, town or village within the State of Texas for profit then such person, association, private corpo-

ration, trustee, receiver or partnership making such sale, transportation or delivery of natural gas by it for certain agricultural purposes or uses shall be subject to the jurisdiction, control and regulation of the Railroad Commission; repealing Section 4(a) of Article 6050 and adding a new Section 4(a) which provides that the Railroad Commission shall not review existing rates or review or determine new rates unless petitioned by the "gas utility," "public utility," or "utility" or unless petitioned by ten percent (10%) or more of the irrigation and/or agricultural customers affected; and providing that upon request of ten (10) or more of said irrigation and/or agricultural customers affected at any time, or upon announcing or implementing a rate increase, the "gas utility," "public utility" or "utility" shall inform the Commission in writing within ten (10) days the number of said affected irrigation and/or agricultural customers; providing for severability; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 4 as added to Article 6050 of the Revised Civil Statutes of Texas, 1925, by Chapter 31, Acts of the 53rd Legislature, 1st Called Session, 1954, is amended to read as follows:

"Sec. 4. Provided, however, that (a) the act or acts of transporting, delivering, selling or otherwise making available natural gas for fuel, either directly or indirectly, to the owners of irrigation wells, or (b) the sale, transportation or delivery of natural gas for any other direct use in agricultural activities, or (c) the sale, transportation or delivery of natural gas for household use in farm houses, shall not be construed within the terms of this law as constituting any person, association, private corporation, trustee, receiver or partnership as a 'gas utility,' 'public utility,' or 'utility' as hereinabove defined so as to make such person, association, private corporation, trustee, receiver or partnership subject to the jurisdiction, control and regulation of the Commission as a gas utility, and such person, association, private corporation, trustee, receiver or partnership

shall be exempt from the jurisdiction and control of the Railroad Commission of Texas insofar as the fixing, reviewing or making of rates is concerned, unless such person, association, private corporation, trustee, receiver or partnership sells, transports, or delivers natural gas at retail to domestic consumers within the incorporated limits of any city, town, or village within the State of Texas for profit; it is expressly intended hereby that the sales, transportation or delivery of natural gas for the purposes or uses enumerated in (a), (b), or (c) shall be subject to the jurisdiction, control and regulation of the Railroad Commission of Texas when such sales, transportation or delivery of natural gas for the purposes or uses enumerated in (a), (b), or (c) are made by any person, association, private corporation, trustee, receiver or partnership who also sells, transports or delivers natural gas at retail to domestic consumers within the incorporated limits of any city, town or village within the State of Texas for profit."

Section 2. Section 4(a) of Article 6050, Revised Civil Statutes of Texas, 1925, is amended by striking all of Section 4(a) and inserting in lieu thereof the following:

"Section 4(a). Provided that the Commission shall not review existing rates or review or determine new rates unless petitioned by the 'gas utility,' 'public utility,' or 'utility' or unless petitioned by ten percent (10%) or more of the irrigation and/or agricultural customers affected. Upon request of ten (10) or more of said irrigation and/or agricultural customers affected at any time, or upon announcing or implementing a rate increase, the 'gas utility,' 'public utility,' or 'utility' shall inform the Commission in writing within ten (10) days the number of said affected irrigation and/or agricultural customers."

Sec. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 4. The fact that it is imperative to the agricultural economy of

this State that this legislation be passed and become effective without delay creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The report was read.

Senator Owen raised the point of order that a portion of the bill under consideration was not within the Governor's call.

The President Pro Tempore overruled the point of order.

Senator Owen then raised a point of order that a portion of the bill under consideration was a tax-raising measure and should have originated in the House.

The President Pro Tempore overruled the point of order.

Question — Shall the Conference Committee Report on S. B. No. 39 be adopted.

Recess

On motion of Senator Ratliff the Senate at 12:08 o'clock p.m. took recess until 2:00 o'clock p.m. today.

Record of Votes

Senators Hardeman, Crump, Rogers and Patman asked to be recorded as voting "Nay" on the motion to recess.

After Recess

The President Pro Tempore called the Senate to order at 2:00 o'clock p.m. today.

Message from the House

Hall of the House of Representatives
Austin, Texas,
January 31, 1962.

Hon. Charles F. Herring, President Pro Tempore of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House refused to adopt Con-

ference Committee report on S. B. No. 39 by vote of 76 ayes, 69 noes, and asks for appointment of a new Conference Committee.

Respectfully Submitted,

DOROTHY HALLMAN,

Chief Clerk, House of Representatives

Conference Committee Report on Senate Bill 39

The Senate resumed the consideration of the pending business, same being the Conference Committee Report on S. B. No. 39.

Question — Shall the Conference Committee Report on S. B. No. 39 be adopted?

Senator Rogers by unanimous consent withdrew the pending motion that the Conference Committee Report on S. B. No. 39 be adopted and that the Senate Conferees on S. B. No. 39 be discharged and that a new Conference Committee be requested.

There was no objection offered.

The motion to grant the request prevailed.

House Concurrent Resolution on First Reading

The following resolution received from the House was read the first time and referred to the committee indicated:

H. C. R. No. 35, To the Committee on Jurisprudence.

House Concurrent Resolution 38 on Second Reading

The President Pro Tempore laid before the Senate on its second reading the following resolution:

H. C. R. No. 38, Extending congratulations to Father Levada and his family.

The resolution was read.

On motion of Senator Baker and by unanimous consent the resolution was considered immediately and was adopted.

Report of Standing Committee

Senator Hardemann by unanimous consent submitted the following report:

Austin, Texas,
January 31, 1962.

Hon. Charles F. Herring, President
Pro Tempore of the Senate:

Sir: We, your Committee on Jurisprudence, to which was referred H. C. R. No. 35, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

**House Concurrent Resolution 35
Ordered Not Printed**

On motion of Senator Hardeman and by unanimous consent H. C. R. No. 35 was ordered not printed.

Bills Signed

The President Pro Tempore signed in the presence of the Senate after the captions had been read, the following enrolled bills:

H. B. No. 17, A bill to be entitled "An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as 'Dayton Drainage District'; etc.; and declaring an emergency."

H. B. No. 19, A bill to be entitled "An Act creating a conservation and reclamation district under the provisions of Section 59 of Article XVI, Constitution of Texas, to be known as 'Memorial Villages Water Authority'; etc.; and declaring an emergency."

H. B. No. 24, A bill to be entitled "An Act validating Liberty County Water Control and Improvement District No. 5 and declaring it to be a validly existing and operating conservation and reclamation district under Section 59, Article XVI, Texas Constitution; etc.; and declaring an emergency."

H. B. No. 26, A bill to be entitled "An Act ratifying, confirming and validating the El Paso County Water Control and Improvement District-Westway and declaring it to be a validity existing and operating conservation and reclamation district under Section 59, Article 16, Constitution of Texas; etc.; and declaring an emergency."

H. B. No. 29, A bill to be entitled

"An Act creating a conservation district under Article XVI, Section 59, of the Constitution, to be known as 'Henderson County Municipal Water Authority,' comprising certain territory contained within Henderson County, Texas, for the purpose of providing a source of water supply for municipal, domestic and industrial use and treating, transporting, and distributing the same, and constructing sanitary sewers and facilities; etc.; and declaring an emergency."

H. B. No. 45, A bill to be entitled "An Act authorizing counties to pay for the relocation of water lines owned by water control and improvement districts under certain circumstances; and declaring an emergency."

H. B. No. 49, A bill to be entitled "An Act amending Article 2335, Revised Civil Statutes of Texas, 1925, to provide that persons or institutions given custody of children adjudged dependent and neglected by courts of competent jurisdiction shall be responsible for the child's education and maintenance, including the providing of necessary dental, medical and surgical care and treatment; repealing all laws and parts of laws in conflict; and declaring an emergency."

H. B. No. 53, A bill to be entitled "An Act validating, ratifying, approving and confirming bonds heretofore authorized by any Home Rule City in the State of Texas, for the purpose of providing street and drainage improvements, or for the purpose of constructing new fire stations, and any and all proceedings, pertaining to the authorization and issuance thereof; etc.; and declaring an emergency."

H. B. No. 58, A bill to be entitled "An Act amending Section 1 of Chapter 85, Acts of the 54th Legislature, Regular Session, 1955 (Compiled as Article 326k-27 of Vernon's Texas Civil Statutes), authorizing the appointment of an investigator by the District Attorney of the 118th Judicial District to serve as investigator in that judicial district; prescribing his powers and duties and providing for his compensation and expenses; and declaring an emergency."

H. B. No. 81, A bill to be entitled

"An Act to amend Section 2, Article 4 of Chapter V of Chapter 97, Acts of the 48th Legislature, Regular Session, 1943, as amended, codified as Section 2 of Article 342-504, Vernon's Texas Civil Statutes, relating to the conditions upon which State banks may make loans upon security of real estate or invest funds in obligations secured by real estate, so as to liberalize the limitation of percentage of appraised value of residential real estate which may be included in the total 'net balance' owing upon the indebtedness secured by such lien; repealing conflicting laws; and declaring an emergency."

H. B. No. 82, A bill to be entitled "An Act authorizing the exchange and conveyance of certain State-owned realty for certain realty owned by the United States; describing by metes and bounds the realty authorized to be exchanged; and declaring an emergency."

H. B. No. 88, A bill to be entitled "An Act relating to the hunting, taking, or killing of antlerless deer in Travis County; providing penalties; and declaring an emergency."

H. B. No. 91, A bill to be entitled "An Act limiting the provisions of this Act to the County of Mills, making it unlawful except under the provisions of this Act, for any person to hunt, take, kill or attempt to kill, or possess, any game bird or game animal in said County at any time; to take, kill or trap or attempt to take, kill or trap any fur-bearing animal in said County or to take or attempt to take any fish or other aquatic or marine animal from said County by any means or method; etc.; and declaring an emergency."

H. B. No. 92, A bill to be entitled "An Act amending Section 1 of Chapter 376, Acts of the 54th Legislature, Regular Session, 1955, codified as Article 8280-176, Vernon's Texas Civil Statutes, so as to change the name of the Runnels County Water Improvement District to the 'Runnels County Water Improvement Authority'; and declaring an emergency."

H. B. No. 93, A bill to be entitled "An Act establishing a juvenile board in Runnels County; providing for the Board's powers, duties, and authority; providing for its membership and the compensation to be paid the members; and declaring an emergency."

H. B. No. 101, Relating to the hunting, taking or killing of deer in Hopkins, Delta, and Franklin Counties; amending Subsection B of Section 1 of Chapter 362, Acts of the Fifty-seventh Legislature, Regular Session, 1961, to establish a ten-day season for the taking of deer in Hopkins, Delta and Franklin Counties; and declaring an emergency.

H. B. No. 85. A bill to be entitled "An Act to authorize the trustees of independent school districts having fewer than one hundred seventy-five thousand (175,000) scholastics according to the last official scholastic census, whether created by general law or special Act, in counties having a population of more than one million two hundred thousand (1,200,000), according to the last preceding federal census, to fix the date of election of such trustees on the first Saturday in April or on the first Saturday in October as the trustees by official resolution may provide; to authorize the trustees of such independent school districts in said counties to provide by resolution for the election of trustees by a majority vote and to provide for a second election in the event no candidate receives such vote at the first election; and declaring an emergency."

House Bill 35 on Second Reading

Senator Hardeman asked unanimous consent to suspend the regular order of business and take up H. B. No. 35 for consideration at this time.

There was objection.

Senator Hardeman then moved to suspend the regular order of business and take up H. B. No. 35 for consideration at this time.

Pending discussion by Senator Moore to suspend the regular order of business and take up H. B. No. 35 at this time, Senator Kazen occupied the Chair.

Senator Hardeman by unanimous consent withdrew the pending motion and made the following statement:

I am withdrawing the motion to suspend the regular order of business to permit the Senate to take up and consider H. B. 35 (creating Angelo State College) out of regular order, for the reason that prolonged discussion would only result in the defeat

of a number of bills important to some of my colleagues and to the people of their respective districts. This, because we are approaching the application of Senate Rule 37 (known as the 72 and 24-hour rule) which prohibits the taking of a vote upon the passage of any bill within the last 24 hours of the session.

A personal poll of the Members present convinced me that I would be unable to muster the necessary votes to suspend the regular order, as moved, and much more, the four-fifths required to suspend the three-day Constitutional Rule (Art. III, Sec. 32) and related Senate rules.

I have no criticism of the rules. They were invoked against H. B. 35 as a matter of right. Rules exist for the minority. I simply could not muster enough votes to suspend the applicable rules. (It should be borne in mind that the Senate Rules are entirely different in many respects—particularly extended discussion—from the rules of the other body.)

And, not being able to muster a sufficient number of votes to suspend the pertinent rules and out of deference to those of my colleagues with important measures pending, including many supporters of H. B. 35, after about an hour's discussion by the Senator from Brazos which, doubtless, would and could have been extended until the 24-hour rule became effective, I feel constrained to withdraw the motion I made earlier and thus end the present discussion and await action in a subsequent session.

I am grateful for the support of so many of my colleagues and hold no personal ill-will toward those who entertained and exhibited opposing views on H. B. 35.

HARDEMAN

Statement on House Bill 34

Senator Hudson was recognized and he stated that he would not attempt to suspend the rules to consider H. B. No. 34 which related to Pan American College for the same reasons stated by Senator Hardeman on H. B. No. 35.

House Bill 108 on Second Reading

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 108, A bill to be entitled "An Act creating the Old Galveston Quarter in order to preserve certain historically significant areas; providing a Commission to effectuate this purpose, and granting the Commission certain powers and authorities in order to carry out this purpose; providing for revenue bonds; . . . etc.; and declaring an emergency."

The bill was read second time.

Senator Schwartz offered the following amendment to the bill:

Amend House Bill No. 108 by striking all of Section 11 and substituting in lieu thereof the following:

"Sec. 11. (a) (1) For the purpose of providing funds to acquire, improve, equip and repair such Quarter, or for the acquisition by construction or otherwise of any facilities to be used in or connected with or incident to any such Quarter, or for any one or more of such purposes, the Commission shall have the power from time to time and is hereby authorized by resolution (hereinafter sometimes called the 'Resolution'), to issue revenue bonds, without the necessity of an election, hereinafter sometimes called 'Revenue Bonds,' which shall be fully negotiable instruments under the Uniform Negotiable Instruments Law and all other laws of Texas. Included but without limiting, among the permanent improvements and facilities which may be acquired through the issuance of Revenue Bonds are the following: houses, piers, sites of historic interest, athletic fields, pavilions, and buildings and grounds for assembly, together with parking facilities and other improvements incident thereto. Such Revenue Bonds shall be issued in the name of the Old Galveston Quarter and signed by the Commission. They shall mature serially or otherwise in not to exceed forty (40) years and may be sold by the Commission at a price and under terms determined by the Commission to be the most advantageous reasonably obtainable, provided that the average interest cost, taking into consideration the maturity date or dates of the Revenue Bonds calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, shall not exceed six per cent (6%) per annum. The Resolution authorizing the issuance of the bonds shall prescribe the

details as to the Revenue Bonds. It may contain provisions for the calling of the Revenue Bonds for redemption prior to their respective maturity dates at such prices and at such times as may be prescribed in such Resolution, but except for such rights of redemption expressly reserved in the Resolution and in the Revenue Bonds they shall not be subject to redemption prior to their scheduled maturity date or dates. The bonds may be made payable at such times and at such places, within or without the State of Texas, as may be prescribed in the Resolution, and they may be made registrable as to principal, or as to both principal and interest.

(2) The Revenue Bonds may be issued in one or more series from time to time as required for carrying out the purposes of this Act.

(3) The bonds may be secured by a pledge of all or a part of the Net Revenues from the operation of the Old Galveston Quarter or the facilities thereof and incident thereto. The net revenues of any one or more contracts, operating contracts, leases or agreements theretofore or thereafter made or to be made may be pledged as the sole, or as additional security, for the support of the bonds. Any other revenue other than tax revenue may be specified in the Resolution of the Commission or may be pledged as additional security for the bonds. In any such Resolution the Commission may reserve the right under conditions therein specified to issue additional bonds which will be on a parity with, or subordinate to the bonds then being issued.

(4) The term 'Net Revenues' as used in this section and in this Act shall mean the gross revenues from the operation of the Old Galveston Quarter and the facilities thereof, leases, agreements and contracts, and incidents thereto, or from any one or more thereof, whose revenues shall have been thus pledged, after deduction of the necessary expenses.

(5) From the proceeds of the Revenue Bonds the Commission may set aside, as shall be prescribed in the Resolution, an amount for payment of interest estimated to accrue during the construction period and in addition thereto such reserve for the interest and sinking fund as may be deemed proper. From the proceeds of the Revenue Bonds all expenses necessarily incurred in issuing and in selling the Revenue Bonds shall be

paid. The remainder of such proceeds shall be used for the purposes specified in the Resolution, and comprehended by the purposes permitted under paragraph (4) above.

(6) Said bonds shall never be construed to be a debt of the county or the State of Texas within the meaning of any constitutional or statutory provisions, but shall be payable solely and only from the revenues pledged to their payment as herein provided. No principal or interest on such bonds or any refunding bonds shall ever be a debt against the tax revenues of such county. Such bonds shall never be reckoned in determining the power of the county to incur obligations payable from taxation. Each Revenue Bond shall contain on its face substantially the following provisions:

'The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.'

(7) So long as any of the Revenue Bonds are outstanding no additional bonds of equal dignity shall be issued against the pledged revenues except to the extent and in the manner expressly permitted in the Resolution.

(8) Before any such bonds are delivered to the purchaser they shall be submitted to the Attorney General along with the record pertaining thereto for his examination and approval. It shall be the duty of the Attorney General to approve the Revenue Bonds when issued in accordance with this Act. Bonds thus approved by the Attorney General and registered within the office of the Comptroller of Public Accounts shall be incontestable.

(b) Revenue Bonds which likewise will be fully negotiable, may be issued by Resolution first adopted by the Commission for the purpose of refunding bonds issued under this Act. The refunding bonds may be secured in the manner provided in this Act for securing original Revenue Bonds. No election shall be required for the issuance of any refunding bonds. Such refunding bonds may be sold and the proceeds used to retire the original bonds, or may be issued in exchange for the original bonds, as may be provided in the resolution authorizing their issuance.

(c) (1) The expense of operation and maintenance of facilities whose revenues are pledged to the payment of bonds shall always be a first lien on and charge against the income

thereof. So long as any of said bonds or interest thereon remain outstanding the Commission shall charge or require the payment of fees and tolls for the use of such facilities which shall be equal and uniform within classes defined by the Commission and which shall yield revenues at least sufficient to pay the expenses of such operation and maintenance, and to provide for the payments prescribed in the Resolution for 'Debt Service' as that term may be defined in the Resolution (which without limitation may include provisions for any or all of the following: the payment of principal and interest as such principal and interest respectively mature, the establishment and maintenance of funds for extensions and improvements, and operating reserve, and an interest and sinking fund reserve).

(2) The Commission is authorized to determine the rates, charges and tolls which must be charged by it for the use, operation or lease of such facilities.

(d) The following provisions shall be applicable as to Revenue Bonds issued under this Act:

(1) It shall be the duty of the Commission to fix such tolls and charges for the use of the facilities whose revenues are thus pledged as will yield revenues fully sufficient to operate and maintain such facilities and to permit full compliance by the Commission with the covenants contained in the Resolution for the making of payments into the Debt Service Fund, including payments into any reserve accounts or funds created in the Resolution in connection with the issuance of the Bonds. In the event that any part of the security for the Revenue Bonds consists of money to be received by the Commission as consideration for facilities belonging to the Commission but operated by another or others under some form of lease or operating contract, it shall be the duty of the Commission to fix and authorize rates, charges and tolls to be made by such person or persons for services to be rendered by such facilities, at least sufficient to assure the receipt by the Commission of money which the Commission is committed to pay from such source for Debt Service under the terms of the Resolution.

(2) The proceeds of the bonds shall be used and shall be disbursed under such restrictions as may be provided in the Resolution, and there shall be

and there is hereby created and granted a lien upon such moneys, until so applied, in favor of the holders of the Revenue Bonds or of any trustee provided for in respect to such bonds, but neither the depository of such funds nor the trustee shall be obligated to see to the proper application of such fund except as expressly provided in the Resolution or in the indenture securing the bonds. Any surplus remaining from the bond proceeds after providing for the following: interest during construction and for such additional period as may be prescribed in the Resolution, and the creating of any reserve fund prescribed in the Resolution and the accomplishment of the bond purpose, shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices, with any remainder after such purchase to be deposited in the fund established in the Resolution for Debt Service.

(3) The Resolution may provide that such Revenue Bonds shall contain a recital that they are issued pursuant to and in strict conformity with this Act and such recital when so made shall be conclusive evidence of the validity of the Revenue Bonds and the regularity of their issuance.

(4) Any Revenue Bond issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county, or other political subdivision or taxing district of the State.

(5) If so provided in the Resolution an indenture securing the bonds may be executed by and between the Old Galveston Quarter and a corporate trustee, and such Resolution may provide also for execution of the indenture by a corporate or individual co-trustee. Any such corporate trustee or corporate co-trustee shall be any trust company or bank within or without the State of Texas having the powers of a trust company.

(6) Either the Resolution or such indenture may contain such provisions for protecting or enforcing the rights or remedies of the bondholders as may be considered by the Commission reasonable and proper and not in violation of the law, including covenants setting forth the duties of the Commission in reference to a maintenance, operation or repair, and insurance (including within the discretion of the Commission insurance against loss

of use and occupancy) of the facility whose revenues are pledged, and the custody, safeguarding and application of all moneys received from the sale of the Revenue Bonds, and from revenues to be received from the operation of the project.

(7) It shall be lawful for any bank or trust company in this State to act as depository for the proceeds of the bonds or revenues derived from the operation of facilities whose revenues may be pledged, or for the special funds created to assure payment of principal and interest on the Revenue Bonds, including reserve funds and accounts, or for one or more of such classes of deposits, and to furnish such indemnity bonds or to pledge such securities as may be required by the Commission.

(8) The Commission may select such depository or depositories without the necessity of seeking competitive bids. Such deposits shall be secured in the manner required by law for the security of money belonging to counties. Provided that the Commission in the Resolution or the indenture securing the Revenue Bonds may bind the Commission to the use of direct obligations of the United States Government or obligations unconditionally guaranteed by the United States Government as security for such deposits. Such indenture, or ordinance, may set forth the rights and remedies of the bondholders and of the Trustee and may restrict the individual rights of action of the bondholders. The Resolution may contain all other suitable provisions such as the Commission may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the terms and conditions upon which any or all of the bonds shall become, or may be declared to be due before maturity, and as to the rights, liabilities, powers and duties arising from the breach by the Commission of any of its duties or obligations.

(9) That any holder or holders of the Revenue Bonds issued hereunder, including a trustee or trustees for such holders, shall have the right in addition to all other rights by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the Commission or its employees, the agents and employees thereof, or any

lessee or any of said facilities whose revenues are pledged, including but not limited to the right to require the Commission to impose and establish and enforce sufficient and effective tolls and charges to carry out the agreements contained in the Resolution and indenture, or in both the Resolution and indenture, and to perform all agreements and covenants therein contained and duties arising therefrom, and in the event of default as defined in the Resolution authorizing the Revenue Bonds or in the indenture securing the Revenue Bonds to apply for and obtain the appointment of a receiver for any of the properties involved. If such receiver be appointed he shall enter and take possession of the facilities whose revenues shall have been pledged and until the Commission may be no longer in default, or until relieved by the court, retain possession of the properties involved and collect and receive all revenues and tolls arising therefrom in the same manner as the Commission itself might do, and shall dispose of all such moneys and apply same in accordance with the obligations of the Commission under the Resolution or indenture, and as the court may direct. Nothing in this Act shall authorize any bondholder to require the Commission to use any funds in the payment of the principal or of interest on the bonds except from the revenues pledged for their payment.

(10) The Resolution or the indenture securing the bonds may contain provisions to the effect that so long as the revenues of the Quarter are pledged to the payment of Revenue Bonds no free service shall be rendered by any of such facilities of the Quarter for which tolls, charges and rentals are to be effective under the Resolution.

(11) All such revenue bonds shall be and are hereby declared to be legally authorized investment for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds and other funds of the State of Texas, and of all municipal corporations, counties, political subdivisions, public agencies, and taxing districts within the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of all municipal corporations, counties, political subdivisions, public agencies and

taxing districts within the State of Texas, and such bonds shall be lawful and sufficient security for such deposits to the extent of their face value when accompanied by all matured coupons appurtenant thereto.

(12) The provisions contained in the Resolution and in the indenture and the applicable provisions of this Act shall constitute an irrepealable contract between the Commission on the one part and the holders of such bonds on the other part.

(e) At any time prior to the authorization of Revenue Bonds secured by a pledge of the revenues from any designated facility or facilities of the Old Galveston Quarter, the Commission may for such period of time as it may determine make a contract or lease agreement with a company, corporation, or individual, for the operation of such facility, or facilities, the consideration for such contract or lease agreement to be specified, or the method of determining such consideration to be prescribed in such contract or lease agreement. The revenues from any such contract or agreement may be pledged in the Resolution or indenture as security or additional security for the Revenue Bonds. Any such facility or facilities may likewise be leased under such contract or lease agreement concurrently with the authorization of the issuance of said Revenue Bonds, and the revenues therefrom pledged as security or additional security for the Revenue Bonds; and in the event that issuance of said Revenue Bonds is authorized concurrently with the contract or lease agreement then the revenues from such contract or agreement shall constitute the sole or substantially all of the security for the Revenue Bonds such contract or agreement must provide that the rentals, tolls and charges to be enforced by such lessee for the use or services provided by such facility or facilities shall be sufficient at least to yield in the aggregate money necessary to pay the reasonable operation and maintenance expenses to assure proper operation and maintenance of such facility or facilities, plus an amount which will assure income to the Commission to permit and assure payments into the several funds and accounts in the manner, at the time and in the amounts specified in the Resolution. Any such lease agreement or contract may provide that such rentals, tolls and charges may be sufficient to yield a

reasonable profit to the other party to the lease agreement or contract, but to be realized only after payment in full of the obligation to the Commission; any such operating or lease contract may provide for payment of the annual consideration or rental in monthly installments approximately equal and that failure to pay any required sum when due may be declared to be a breach of contract or agreement, entitling the Commission under regulations prescribed therein to declare the contract or agreement forfeited and to take over the operation and maintenance of such facility or facilities, but such remedy shall be cumulative of all others therein provided or recognized.

(f) Before July 1st of each year the Commission shall prepare and not later than July 1st, file with the County Judge of such county, a complete statement showing the financial status of the Commission, its properties, funds and indebtedness. The statement shall be so prepared as to show separately all information concerning the Revenue Bonds, the income from pledged facilities, and expenditures of such revenues. It shall be the duty of the Commission to so operate said Quarter that there will be available from the gross revenues received from the operation of Quarter facilities whose revenues are pledged to the payment of Revenue Bonds money sufficient to pay the operation and maintenance expenses of said facilities without the appropriation of tax money for the expense of maintaining and operating such facilities."

The amendment was adopted.

Senator Schwartz offered the following amendment to the bill:

Amend H. B. No. 108 by striking in Section 13(a) the words "a two-thirds vote" and substituting therefor the following "two-thirds of those voting in an election."

The amendment was adopted.

On motion of Senator Schwartz and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

House Bill 108 on Third Reading

Senator Schwartz moved that the Constitutional Rule and Senate Rule

32 requiring bills to be read on three several days be suspended and that H. B. No. 108 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Moffett
Baker	Moore
Colson	Owen
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Hardeman	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Spears
Lane	Willis
Martin	

Absent

Calhoun	Herring
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Absent—Excused

Roberts	Weinert
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The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Motion to Suspend Senate Rule 106 on House Bill 32

Senator Spears moved that Senate Rule No. 106 be suspended in order that the Senate could consider H. B. No. 32.

Pending discussion of the motion, Senator Owen raised a point of order that a motion to suspend Rule 106 is not debatable.

The Presiding Officer (Senator Kazen in the Chair) sustained the point of order.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—13

Aikin	Patman
Colson	Rogers
Crump	Schwartz
Dies	Secrest
Kazen	Spears
Moffett	Willis
Moore	

Nays—12

Baker	Lane
Creighton	Owen
Fuller	Parkhouse
Hazlewood	Ratliff
Hudson	Reagan
Krueger	Smith

Absent

Calhoun	Herring
Hardeman	Martin

Absent—Excused

Roberts	Weinert
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Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,
January 31, 1962.

Hon. Charles F. Herring, President
Pro Tempore of the Senate:

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 110, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

House Bill 110 Ordered Not Printed

On motion of Senator Spears and by unanimous consent H. B. No. 110 was ordered not printed.

House Bill 110 on Second Reading

Senator Spears moved that Senate Rules 13, 32 and 38 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H. B. No. 110 be placed on its second reading and passage to third reading and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	Krueger
Baker	Lane
Calhoun	Moffett
Colson	Moore
Creighton	Owen
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Hazlewood	Reagan
Hudson	Rogers
Kazen	Schwartz

Secrest
Smith

Spears
Willis

Absent

Hardeman
Herring

Martin

Absent—Excused

Roberts

Weinert

The Presiding Officer then laid before the Senate on its second reading and passage to third reading the following bill:

H. B. No. 110, A bill to be entitled "An Act providing that at the next General Election the electorate shall determine whether the office of the county superintendent shall be abolished in any county of this State having a population of not less than six hundred thousand (600,000) according to the last preceding Federal Census, and wherein there are four (4) or more common school districts; providing that in the event the office is abolished certain duties shall be transferred to the county judge; providing for the compensation to be paid the county judge for performing such duties in an ex officio capacity; and declaring an emergency."

The bill was read the second time and was passed to third reading.

House Bill 110 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the Presiding Officer laid H. B. No. 110 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

Message from the House

Hall of the House of Representatives
Austin, Texas,
January 31, 1962.

Hon. Charles F. Herring, President
Pro Tempore of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 3, A bill to be entitled "An Act making certain appropriations out of the General Revenue Fund to the State Highway Department for advertising tourist attractions in Texas and to the Texas Youth Council for additional parole

supervisors and officers and operating expenses; out of the unexpended balances in the Special Mineral Lease Fund to the Department of Corrections for emergency purposes; out of the State Building Fund to the State Building Commission for renovation and repair of the San Jacinto Monument; and declaring an emergency."

(With amendments.)

Respectfully submitted,
DOROTHY HALLMAN,

Chief Clerk, House of Representatives

House Bill 66 on Second Reading

On motion of Senator Secrest and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 66, A bill to be entitled "An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, to be known as McLennan County Water Control and Improvement District—Bosqueville Hills; etc.; and declaring an emergency.

The bill was read second time.

Senator Secrest offered the following Committee Amendment to the bill:

Amend H. B. 66 by striking out Section 4 thereof and inserting in lieu thereof the following:

"Section 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the general laws of this State now in force, or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, of the Constitution of Texas, but to the extent that the provisions of any such general law may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. It shall not be necessary for the Board of Directors to call a confirmation election or to hold a hearing on the adoption of a plan of taxation. The ad valorem plan of taxation shall be used by the District.

The provisions of the general law pertaining to water control and improvement districts applicable to an exclusion hearing shall be applicable to this District, except that the notice for said hearing shall be by publication one time in a newspaper having general circulation in the District and that said publication shall be at least ten (10) days prior to said hearing."

The Committee Amendment was adopted.

Senator Secrest offered the following Committee Amendment to the bill:

Amend H. B. 66 by striking out Section 8 thereof and inserting in lieu thereof the following:

"Section 8. All bonds and refunding bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds and refunding bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto."

The Committee Amendment was adopted.

Senator Secrest offered the following Committee Amendment to the bill:

Amend H. B. 66 by striking out the caption thereof and inserting in lieu thereof the following caption:

"A BILL

TO BE ENTITLED

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, to be known as McLennan County Water Control and Improvement District—Bosqueville Hills; declaring District a governmental agency, body politic

and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; defining powers of District; conferring on District the rights, powers, privileges, authority, and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in Conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for a hearing for exclusions and notice for same; providing no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; authorizing District certain rights, powers, and authority for and in connection with its systems, facilities, and other things necessary to the fulfillment of its purposes whether within or without the boundaries of the District but limited to McLennan County, Texas, and related matters; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors; providing Directors to fill vacancies; providing for organization of Board of Directors; providing for employment of engineers, attorneys, fiscal agents, managers, and employees; providing for sale and price of bonds or refunding bonds; providing for exchange of bonds or refunding bonds for property acquired or in payment of contract price for work done or materials or services furnished and providing for price of bonds or refunding bonds in such exchange; providing for bonds and refunding bonds to be approved by Attorney General of Texas and registered by the Comptroller of Public Accounts and providing for negotiability, legality, validity, obligation, and incontestability of the bonds or refunding bonds; making bonds or refunding bonds eligible investments; making inapplicable to the District certain provisions of Article 7880-77b, Vernon's Texas Civil Statutes, as amended; exempting property and bonds of the District from taxation, and related matters; provid-

ing for an annual audit, fiscal year, and related matters; providing District shall bear expense of relocating, raising, or rerouting of any highway, railroad, utility lines, or pipelines made necessary by its exercise of the power of eminent domain; enacting other provisions related to the aforementioned subjects; granting District power to lease or contract for water supply, sewage disposal, drainage, and related systems, facilities and services, and to operate, maintain, collect, account to owners of the systems, and related matters; providing for a severability clause; and declaring an emergency."

The Committee Amendment was adopted.

The bill as amended was passed to third reading.

House Bill 66 on Third Reading

Senator Secrest moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that H. B. No. 66 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Colson	Owen
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Hardeman	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Spears
Lane	Willis

Absent

Herring

Absent—Excused

Roberts Weinert

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Colson	Owen
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Hardeman	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Spears
Lane	Willis

Absent

Herring

Absent—Excused

Roberts Weinert

Senate Bill 3 with House Amendments

Senator Reagan called S. B. No. 3 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Reagan moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

House Bill 40 on Second Reading

The Presiding Officer laid before the Senate on its second reading and passage to third reading:

H. B. No. 40, A bill to be entitled "An Act promoting health and safety by regulating construction standards of mobile homes; defining certain terms; providing for establishment of standards; requiring a seal of approval; providing for reciprocity with other states; conferring powers and duties of enforcement upon the State Department of Health; providing for submission of construction plans; providing for the charging of inspection fees; and providing for penalties; and declaring an emergency."

The bill was read second time.

Senator Crump offered the following amendment to the bill:

Amend H. B. 40 by striking out all after the word "Treasury" in line 14, and all of lines 15 and 16, page 3, Section 7 of said bill and insert in lieu thereof the words "General Revenue Fund."

The amendment was adopted.

Record of Vote

Senator Colson asked to be recorded as voting "Nay" on the adoption of the above amendment.

Senator Hardeman offered the following amendment to the bill:

Amend H. B. 40, Sec. 5(a) by adding at the end thereof: Any rules and regulations promulgated by the Department shall be approved in writing by the Attorney General before they shall become effective and any changes, amendments, alterations or repeal of any rules shall likewise be approved in writing by the Attorney General before such shall become effective. The written approval of the Attorney General together with a copy of each rule or change or changes therein shall be filed in the office of the Secretary of State for public inspection during business hours. Any means, methods and practice prescribed by the Department to carry out the provisions of the Act shall also be approved in writing by the Attorney General and filed in the office of the Secretary of State before the same or any part thereof shall be effective.

The amendment was adopted.

On motion of Senator Moore and by unanimous consent the caption was amended to conform to the body of the bill as amended.

Question on passage of H. B. No. 40 to third reading, yeas and nays were demanded.

H. B. No. 40 failed to pass to third reading by the following vote:

Yeas—10

Aikin	Kazen
Fuller	Moffett
Hudson	Moore

Secrest
Smith

Spears
Willis

Nays—15

Calhoun	Owen
Colson	Parkhouse
Creighton	Patman
Crump	Ratliff
Hardeman	Reagan
Hazlewood	Rogers
Krueger	Schwartz
Lane	

Absent

Baker	Herring
Dies	Martin

Absent—Excused

Roberts	Weinert
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Senate Bill 33 with House Amendments

Senator Schwartz called S. B. No. 33 from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Schwartz moved that the Senate concur in the House amendments.

The motion prevailed.

Senate Conferees on Senate Bill 3

The Presiding Officer announced the appointment by the President Pro Tempore of the following Conferees on the part of the Senate on S. B. No. 3: Senators Reagan, Aikin, Colson, Baker and Kazen.

Message from the House

Hall of the House of Representatives
Austin, Texas,
January 31, 1962.

Hon. Charles F. Herring, President Pro Tempore of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. C. R. No. 14, Granting permission to R. A. Coals to sue the State.

S. C. R. No. 15, Granting permission to Walter F. Myers to sue the State.

S. C. R. No. 17, Granting permission to Oswald C. Bryan and Inola Glass Bryan to sue the State.

S. C. R. No. 21, Granting to City of Austin right-of-way for street purposes.

S. C. R. No. 23, Authorizing Board of Control to remove certain furnishings from the Governor's Mansion.

H. C. R. No. 18, Enabling the State Parks Board and the State Historical Survey Committee to make a thorough investigation of the possibilities of preserving Fort McKavett as a historic site.

House has appointed the following Conference Committee on S. B. No. 39: Wells, Chairman; Buchanan, McIlhany, Osborn and Slack.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk House of Representatives

House Concurrent Resolution 35 on Second Reading

On motion of Senator Crump and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading the following resolution:

H. C. R. No. 35, Granting permission to Pierce Brothers, Inc., to sue the State of Texas and the State Highway Commission.

The resolution was read and was adopted.

House Bill 27 on Second Reading

On motion of Senator Fuller and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 27, A bill to be entitled "An Act closing the season for hunting alligators in Orange County, Texas; providing a penalty for violation; repealing conflicting laws; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 27 on Third Reading

Senator Fuller moved that the Constitutional Rule and Senate Rule 32

requiring bills to be read on three several days be suspended and that H. B. No. 27 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	Lane
Baker	Moffett
Calhoun	Moore
Colson	Parkhouse
Creighton	Patman
Crump	Ratliff
Dies	Reagan
Fuller	Rogers
Hardeman	Schwartz
Hazlewood	Secrest
Hudson	Smith
Kazen	Spears
Krueger	Willis

Absent

Herring	Owen
Martin	

Absent—Excused

Roberts	Weinert
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The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Colson	Parkhouse
Creighton	Patman
Crump	Ratliff
Dies	Reagan
Fuller	Rogers
Hardeman	Schwartz
Hazlewood	Secrest
Hudson	Smith
Kazen	Spears
Krueger	Willis
Lane	

Absent

Herring	Owen
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Absent—Excused

Roberts	Weinert
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House Concurrent Resolution 5 on Second Reading

On motion of Senator Parkhouse and by unanimous consent, the reg-

ular order of business was suspended to take up for consideration at this time on its second reading the following resolution:

H. C. R. No. 5, Directing the Texas Commission on State and Local Tax Policy to make a comprehensive study of proposed or prospective changes in the Texas Limited Sales, Excise and Use Tax and to render to the Governor and to the Fifty-eighth Legislature a written report on its findings, conclusions and recommendations.

The resolution was read and was adopted.

House Concurrent Resolution 18 on Second Reading

On motion of Senator Crump and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading the following resolution:

H. C. R. No. 18, Directing State Parks Board and the State Historical Survey Committee to make investigation of possibilities of preserving Fort McKavett as historical site and State park, etc.

The resolution was read and was adopted.

House Concurrent Resolution 10 on Second Reading

Senator Spears asked unanimous consent to suspend the regular order of business and take up H. C. R. No. 10 for consideration at this time.

There was objection.

Senator Spears then moved to suspend the regular order of business and take up H. C. R. No. 10 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—13

Aikin	Reagan
Baker	Rogers
Colson	Schwartz
Kazen	Secrest
Moffett	Smith
Owen	Spears
Patman	

Nays—10

Calhoun	Hardeman
Creighton	Hazlewood

Krueger	Parkhouse
Lane	Ratliff
Moore	Willis

Absent

Crump	Herring
Dies	Hudson
Fuller	Martin

Absent—Excused

Roberts	Weinert
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Senate Conferees on Senate Bill 39

The Presiding Officer announced the appointment by the President Pro Tempore of the following conferees on the part of the Senate on S. B. No. 39:

Senators Rogers, Hazlewood, Moffett, Secrest and Krueger.

Senate Concurrent Resolution 27

Senator Colson offered the following resolution:

S. C. R. No. 27, Suspending Joint Rules to consider H. B. No. 10 at any time.

Be it resolved by the Senate, the House of Representatives concurring, that the joint rules be suspended to permit the consideration of H. B. No. 10 by the Senate at any time.

The resolution was read.

Senator Colson asked unanimous consent to consider the resolution immediately.

There was objection.

Senator Colson moved to suspend the regular order and consider the resolution immediately.

The motion prevailed by the following vote:

Yeas—17

Aikin	Patman
Baker	Ratliff
Colson	Reagan
Dies	Rogers
Hudson	Schwartz
Kazen	Smith
Lane	Spears
Moffett	Willis
Parkhouse	

Nays—6

Calhoun	Hardeman
Creighton	Moore
Crump	Owen

Absent

Fuller	Krueger
Hazlewood	Martin
Herring	Secrest

Absent—Excused

Roberts	Weinert
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The resolution was then adopted.

Record of Vote

Senator Crump asked to be recorded as voting "Nay" on the adoption of the above resolution.

Senate Bill 32 with House Amendments

Senator Schwartz called S. B. No. 32 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Schwartz moved that the Senate concur in the House amendments.

The motion prevailed by the following vote:

Yeas—24

Aikin	Moffett
Baker	Moore
Calhoun	Parkhouse
Colson	Patman
Creighton	Ratliff
Crump	Reagan
Dies	Rogers
Fuller	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Spears
Lane	Willis

Nays—2

Hardeman	Owen
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Absent

Hazlewood	Martin
Herring	

Absent—Excused

Roberts	Weinert
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Senate Bill 100 with House Amendments

Senator Schwartz called S. B. No. 100 from the President's table for

consideration of the House amendments to the bill.

The Presiding Officer laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Schwartz moved that the Senate concur in the House amendments.

The motion prevailed.

Co-author of Senate Bill 98

Senator Schwartz asked unanimous consent to be shown as co-author of S. B. No. 98.

There was no objection offered.

At Ease

On motion of Senator Hardeman the Senate at 4:55 o'clock p.m. agreed to Stand At Ease for ten minutes.

In Legislative Session

The Presiding Officer (Senator Kazen in the Chair) called the Senate to order as In Legislative Session at 5:05 o'clock p.m.

At Ease

On motion of Senator Aikin the Senate at 5:06 o'clock p.m. agreed to stand At Ease Subject to the Call of the Chair.

In Legislative Session

The Presiding Officer (Senator Kazen in the Chair) called the Senate to order as In Legislative Session at 5:46 o'clock p.m.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
January 31, 1962.

Hon. Charles F. Herring, President
Pro Tempore of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 30, Authorizing the compilation of an accurate roster of Legislative Members from the First through the Fifty-seventh Legislature.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 3.

House has appointed the following Conferences: Ratcliff, Chairman; Hinson, Huebner, Mutscher, and Whitfield.

S. B. No. 66, A bill to be entitled "An Act amending Article 1903, Revised Civil Statutes of Texas, 1925, so as to provide procedure for determining whether or not there shall be nominees for election to the office of joint clerk for the county and district court or nominees for the separate offices of district clerk and county clerk in all counties having a population of less than eight thousand (8,000) according to the last preceding Federal census; and declaring an emergency."

(With amendments.)

Respectfully submitted,

DOROTHY HALLMAN,

Chief Clerk, House of Representatives

Welcome Resolutions

S. R. No. 70, By Senator Reagan: Extending welcome to students and teachers of the Incarnate Word Academy of Corpus Christi.

S. R. No. 71, By Senator Hazlewood: Extending welcome and privilege of the floor to Mr. Todd Overton.

S. R. No. 72, By Senator Crump: Extending welcome to students of Texas History and Government Class of Rochelle High School and Superintendent.

S. R. No. 78, By Senator Martin: Extending welcome to Senior Class and teachers of Jonesboro High School and teachers.

S. R. No. 79, By Senator Schwartz: Extending welcome to students of Government Class of Katy High School.

S. R. No. 81, By Senator Rogers: Extending welcome to Mr. Sterling Buster of Childress.

S. R. No. 82, By Senator Rogers: Extending welcome to Mr. and Mrs. Rees and son of Turkey, Texas.

Memorial Resolution

S. R. No. 75, By Senator Willis: Memorial resolution for W. J. Laidlaw of Fort Worth.

Adjournment

On motion of Senator Dies the Senate at 5:47 o'clock p.m. adjourned until 11:00 o'clock a.m. tomorrow.